

October 1, 2012

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th St. S.W.  
Washington, D.C. 20554

**Re: Amendment of Section 15.35 and 15.253 of the Commission's Rules Regarding Operation of Radar Systems in the 76-77 GHz Band and Amendment of Section 15.253 of the Commission's Rules to Permit Fixed Use of Radar in the 76-77 GHz Band, ET Docket No. 11-90, RM-11555, ET Docket No. 10-28**

Dear Ms. Dortch:

On behalf of Honeywell International, Inc. ("Honeywell"), the attached letter originally filed July 25, 2012 is being refiled in the above-captioned proceeding. Honeywell requests that the Commission treat the letter as a Petition for Reconsideration under Commission rule 1.429, 47 C.F.R. § 1.429. The letter was timely filed and pertains to circumstances that have changed since the comment period closed and the Commission issued a Report and Order in the above-referenced docket.<sup>1</sup> Some of these recent developments could not have been known by Honeywell when the matter was still pending before the Commission.<sup>2</sup> Further, Commission consideration of the issues raised in the attached letter is arguably required in order to serve the public interest.<sup>3</sup>

There is substantial Commission precedent for treating Honeywell's letter as a petition for reconsideration. Generally, the Commission has treated improperly captioned pleadings as petitions for reconsideration when they "clearly seek review of Commission action."<sup>4</sup> Doing so

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<sup>1</sup> 47 C.F.R. § 1.429(b)(1).

<sup>2</sup> 47 C.F.R. § 1.429(b)(2).

<sup>3</sup> 47 C.F.R. § 1.429(b)(3).

<sup>4</sup> See e.g. *RECONROBOTICS, INC. Request for Waiver of Part 90 of the Commission's Rules, Petitions for Reconsideration*, WP Docket No. 08-63, Order on Reconsideration, DA 11-675, ¶ 1 n.5 (WTB/PSHSB/OET rel. Apr. 15, 2011) (citing *Nevada Ready Mix Corp.*, Order on Reconsideration and Order Proposing Modification, DA 09-850, ¶ 7 (WTB MD 2009); *Jack Gerritsen*, Memorandum Opinion and Order, DA 05-534, ¶ 1 n.3 (EB 2005); *Redlands Municipal Airport*, Order on Reconsideration, DA 05-2489, ¶ 4 (WTB PSCID 2005)).

preserves the Commission's ability to consider any meritorious arguments in timely pleadings as well as to clearly apply Sections 1.106(f) or 1.429(d) of the Commission's rules to dismiss untimely pleadings.<sup>5</sup> The Commission has also concluded specifically that a request for "clarification" should properly be treated as a petition for reconsideration "because it requests that we reconsider our decision."<sup>6</sup> Honeywell's letter clearly requests clarification of Section 15.253(a) of the Commission's rules and, in doing so, Honeywell sought an interpretation of the rule that, if granted, would require the Commission to reconsider and modify the prohibition that currently exists with respect to the operation of anti-collision radar on aircraft.

The Report and Order for which Honeywell's July 25, 2012 letter seeks reconsideration was published in the Federal Register on August 13, 2012. The letter was therefore filed well in advance of the 30-day deadline for petitions for reconsideration under Section 1.429(d) of the Commission's rules. Honeywell's letter is therefore timely filed when treated as a petition for reconsideration, and the Commission may properly consider the merits of its arguments.

Honeywell's letter is also compliant with Section 1.429(b)(1) of the Commission's rules because Honeywell had not yet confirmed the feasibility of the technology identified in the attached letter until after the comment period had closed and the Commission had issued a Report and Order in the subject proceeding. As indicated in a request for Special Temporary Authority filed with the Commission on May 30, 2012, Honeywell needed to conduct preliminary tests on the warning radar and, "if feasibility is confirmed, the FCC [would] be contacted to explore whether or not there is a possible regulatory path to acceptance."<sup>7</sup> Testing throughout June and July confirmed the feasibility and potential of the system, whereupon Honeywell promptly contacted the Commission by its July 25, 2012 letter explaining the system and the potential issue.

Honeywell's letter also satisfies Section 1.429(b)(2) of the Commission's rules because Honeywell did not know and could not have known that the National Transportation Safety Board ("NTSB") was about to release a report and recommendation highlighting the need for prompt development and use of wingtip anti-collision warning systems on aircraft.<sup>8</sup> This report, released after the last opportunity to comment on the proceeding, significantly raised the

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<sup>5</sup> *Richard Mann d/b/a The Antique Radio Collector*, Order, DA 12-745, ¶ 1 n.4 (rel. May 11, 2012) ("[T]his pleading was treated as a Petition for Reconsideration in order to allow the Bureau the opportunity to consider novel issues of law and fact not previously raised by Mr. Mann.").

<sup>6</sup> *800 MHz SMR Licensees*, Order, FCC 98-167, ¶ 9 (rel. Aug. 27, 1998).

<sup>7</sup> Honeywell, Inc. Application for Special Temporary Authority, File No. 0443-EX-ST-2012 (Call Sign WF9XTQ) (May 30, 2012).

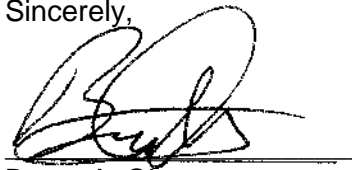
<sup>8</sup> Letter from Deborah A. P. Hersman, Chairman, NTSB, to the Honorable Michael P. Huerta, Acting Administration, Federal Aviation Administration, Re: A-12-48, 49 (Sept. 4, 2012) (available at <http://www.nts.gov/doclib/recletters/2012/A-12-048-049.pdf>).

urgency of Honeywell's request for clarification regarding the permissibility of one type of anti-collision aid.<sup>9</sup>

Finally, consideration of Honeywell's letter complies with Section 1.429(b)(3) of the Commission's rules because the public interest arguably requires consideration of whether a modification of Section 15.253(a) would help to respond to the NTSB recommendation by enabling the use of 76-77 GHz radar systems by aircraft to avoid collisions on the ground. The NTSB's extensive investigation determined that aircraft collisions are a serious concern, and with the release of its recommendation for the FAA to require anti-collision aids, the permissibility of anti-collision radar such as that proposed by Honeywell has become a public interest matter requiring the Commission's attention. Honeywell's letter therefore satisfies the requirements for a petition for reconsideration and the Commission should treat it as such in order to consider this important issue.

Please contact the undersigned if you have any questions.

Sincerely,

  
Bruce A. Olcott

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<sup>9</sup> The NTSB letter specifically discusses cameras, but its recommendation extends to "anti-collision aid[s]" of all types, of which cameras are only one possible solution. Honeywell believes that active warning systems such as wingtip radar may offer a better or complimentary solution because they do not require the flight crew to frequently divert their attention to various video monitoring screens.

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July 25, 2012

## VIA EMAIL

Bruce Romano, Esq.  
Associate Chief (Legal), Office of the Chief Engineer  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Dear Bruce,

Our client, Honeywell International, Inc., is developing a warning system for taxiing aircraft which is similar to the vehicular radar systems on cars permitted under Section 15.253 of the FCC's Rules. The technology uses a small radar device that operates in the 76-77 GHz band, and the device will only be operational while the aircraft is on the ground. The device will be used to avoid ground collisions between aircraft and between aircraft and stationary objects/service vehicles on **the airport surface (taxiways and ramp areas)**. However, Section 15.253(a) states in relevant part: "Operation under the provisions of this section is not permitted on aircraft or satellites." To move forward with the development of this system (and before spending additional time, energy and financial resources), Honeywell seeks clarification that this restriction is only intended to restrict the use of such devices in aircraft while in-flight, not those on the ground. Below is some relevant background information.

We understand that the 76-77 GHz band is allocated to the Radio Astronomy service on a primary basis and the Amateur and Space research (space-to-Earth) services on a secondary basis (which, presumably, explains the restrictions on the use of these radar systems on satellites and in-flight aircraft). We further understand that the FCC released a Report and Order permitting fixed radar devices in the 76-77 GHz band at airport locations to detect foreign object debris on runways and monitor aircraft traffic as well as service vehicles on taxiways.<sup>1</sup> In the Report and Order, the FCC recognized the public safety benefits of using these radar systems at airports, and did not raise any interference concerns with permitting such airport operations.

Chris Benich of Honeywell (Vice President, **Aerospace Regulatory Affairs**) recently discussed this matter with Aamer Zain (Electronics Engineer, Spectrum Coordination Branch) and Mark Settle **who were not aware of any intent to restrict use of this spectrum by aircraft while on the ground**, and advised Mr. Benich to submit a written request to

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<sup>1</sup> *In the Matter of Amendment of Section 15.35 and 15.253 of the Commission's Rules Regarding Operation of Radar Systems in the 76-77 GHz Band and Amendment of Section 15.253 of the Commission's Rules to Permit Fixed Use of Radar in the 76-77 GHz Band*, ET Docket No. 11-90, RM-11555, Et Docket No. 10-28 (rel. July 5, 2012) ("Report and Order").



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clarify that Section 15.253(a) would not prohibit operation of the radar system on aircraft while on the ground.

Honeywell has advised me that its aircraft radar device (which is currently in the developmental stage and is subject to FCC experimental license WF9XTQ) will comply with all applicable Part 15 requirements including those set forth in Section 15.253. In addition, I have been advised that the proposed Honeywell aircraft device will be able to co-exist with fixed radar systems like other vehicular radar systems subject to Section 15.253. On this point, the FCC has stated, "... we continue to believe that vehicular radars should be able to share the band with fixed radars operating at the same levels and note that there are no conclusive test results indicating that there would be compatibility issues between the two types of radars."<sup>2</sup> The FCC also notes that, "[i]n the worst-case scenario, where two radars are aimed directly at each other, fixed radar should have no more impact on a vehicular radar system than another vehicular system would."<sup>3</sup>

With all of this said, we would appreciate your affirmation that the Section 15.253(a) aircraft restriction does not prohibit the use of the Honeywell radar device as described herein on aircraft while on the ground, and would not impede Honeywell's ability to obtain an FCC equipment authorization for such a device.

Please let me know if you have any questions or concerns. I have copied Rashmi Doshi on this email given the equipment authorization issue.

Best regards,

Jay S. Newman

cc Mark Settle  
Rashmi Doshi  
Christopher Benich

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<sup>2</sup> *Id.* at Paragraph 26.

<sup>3</sup> *Id.* at Paragraph 19.